

THE YEAR 2000: Achievements and Challenges

As the new century began, federal courts were facing record levels of work and a challenging budget environment. Administrative Office managers and staff focused on helping courts use effective technologies and develop innovative case-processing measures. They provided



guidance and support necessary for courts to continue to discharge their duties effectively and efficiently, supported the Judicial Conference of the United States and its committees, helped obtain necessary resources from Congress, and continuously looked for ways to improve the quality of services, manage Judiciary programs better, and economize.

This report describes the results of the agency's efforts.

Congressional Relations

Representing the Judiciary

One of the major ways Administrative Office staff support the Judicial Conference and its committees is by identifying and monitoring legislation that could have an impact on the federal Judiciary. They help articulate Judicial Conference policies to Congress and provide information on bills regarding the organization and operation of federal courts, jurisdiction, appropriations, courthouse construction and maintenance, and other topics affecting the Judiciary. They also prepare draft testimony, coordinate responses to inquiries from Congress, and meet regularly with House and Senate members and staff.

The second session of the 106th Congress continued to consider a wide range of issues of importance to the Judiciary. Several chairs of Judicial Conference committees and other Conference representatives testified at congressional committee hearings during 2000. They typically advocated the passage of bills containing proposals of the Conference or explained why it opposed legislation that could adversely affect the Judiciary.

The 106th Congress ended with the passage of the final appropriations bills, which included several successes for the Judiciary. The Commerce, Justice, State, the Ju-

diary and Related Agencies appropriations bill contained the Judiciary's budget, which among other things, cleared the way for a cost-of-living adjustment for judges and created 10 new Article III judgeships. The Treasury, Postal Service and General Government appropriations bill included \$559 million for eight new courthouses. Congress also passed the Federal Courts Improvement Act of 2000.

Fiscal Year 2000 Budget. For the first two months of fiscal year 2000, the Judiciary was funded through a series of continuing resolutions. On November 29, 1999, the Consolidated Appropriations Act was enacted. This act, which included the Commerce, Justice, State and the Judiciary appropriations bill, provided \$3.95 billion for the entire judicial branch for fiscal year 2000. This level of funding provided the Judiciary with a 9 percent increase over fiscal year 1999 spending. In addition, the bill also included language creating nine additional district judgeships as well as a provision that authorizes the Director of the Administrative Office to use appropriated funds to pay for any increases in the cost of Federal Employees' Group Life Insurance

(FEGLI) imposed on senior Article III judges after April 24, 1999. Also included in the bill was a \$5 increase in panel attorney hourly rates. This was only the second time in 15 years that an increase had been provided. The receipt of such a large increase in over-

Bankruptcy Judge David W. Huston III (N.D. Miss.), Senate Majority Leader Trent Lott (R-MS) and Administrative Office Director Leonidas Ralph Mecham discuss Judiciary-wide issues, among them a COLA for judges.



all funding was due mainly to the extraordinary effort of the Judicial Conference Committee on the Budget, other judges, Director Mecham, and Administrative Office staff.

Fiscal Year 2001. Because the Judiciary's appropriations bill is included with the Departments of Commerce, Justice, State, and other federal agencies, the Judiciary's budget was delayed again in 2000 because of policy differences between Congress and the President. However, under the leadership of the Judicial Conference

Budget Hearings



Federal Judicial Center Director Judge Fern M. Smith, Judge John G. Heyburn II (W.D. Ky.), Judge Robert C. Broomfield (Arizona), and Administrative Office Director Leonidas Ralph Mecham testify at House hearings on the fiscal year 2001 budget.

Committee on the Budget, chaired by Judge John G. Heyburn II, and Director Mecham, the Judiciary fared well in the Judiciary's fiscal year 2001 appropriations bill, which although passed by Congress in October, was not forwarded to the President until mid-

THE JUDICIARY

Summary of Fiscal Year 2001 Budget

(total obligations in thousands of dollars)

Appropriation Account	FY 2000 Actual	House Bill	Senate Bill	FY 2001 Estimated Total Available Resources
Court of Appeals, District Courts, and Other Judicial Services				
Salaries and Expenses	3,405,839	3,621,688	3,665,682	3,705,129
Defenders Services	406,982	428,417	424,447	445,861
Fees of Jurors	63,000	64,192	62,938	62,219
Court Security	200,917	199,161	203,033	206,462
Subtotal	4,076,738	4,313,458	4,356,100	4,419,671
Other Accounts	207,013	208,045	201,657	210,341
TOTAL OBLIGATIONS	4,283,751	4,521,503	4,557,757	4,630,012

December when it was enacted. The bill authorized 10 new judgeships, provided a 2.7 percent cost-of-living raise for judges, and for the first time in three years provided the Judiciary with significant funds to hire new staff and fully implemented new court staffing formulas.

courtroom sharing issue was reviewed in an Ernst & Young report that was completed under an Administrative Office contract and transmitted to Congress by the Director. The report recommended no change to the Judicial Conference policy of one courtroom for every active district judge. All judges with courthouse projects, Director Mecham, and Administrative Office staff worked with members of Congress to gain support.

Congress did not approve OMB's proposal for courtroom sharing. The Senate authorizing committee approved all 17 projects proposed by GSA at full funding levels. The House authorizing committee approved all but one of the projects, with most at full funding, but slightly reduced a few projects to eliminate any modifications from the *U.S. Courts Design Guide*. The total funds appropriated, however, did not cover all of the projects that were authorized. The final appropriations bill provided funds in fiscal year 2001 for only the top four projects on the Judiciary's prioritized plan (Los Angeles, California; Seattle, Washington; Richmond, Virginia; and Gulfport, Mississippi). It also provided funding to be available in fiscal year 2002 for four more projects (Washington, D.C.; Buffalo, New York; Springfield, Massachusetts; and Miami, Florida). Congress appropriated funds for 11 courthouse repair and alteration projects in fiscal year 2001.

Courthouse Construction. For the first time in four years, the President included a request to fund a portion of the Judiciary's courthouse construction program in the unified budget proposal submitted to Congress for fiscal year 2001. The request, however, was to fund only eight of the 17 courthouse projects recommended by the General Services Administration (GSA) at a lower funding level than GSA's estimates.

Judge Jane Roth, chair of the Judicial Conference Committee on Security and Facilities, met with congressional leaders and testified before both the House and Senate authorizing subcommittees and a House Appropriations subcommittee to urge full funding of all courthouse projects with adherence to Judicial Conference policy of one courtroom for every active district judge. The

Judicial Operations & Jurisdiction.

In the closing days of the 106th Congress, both houses passed an amended version of the Federal Courts Improvement Act of 2000. On November 13, 2000, the President signed the act, which includes numerous provisions enhancing the Judiciary's effectiveness and efficiency. Among other things, the act

- Amends the contempt authority of magistrate judges and the petty consent requirement of cases before them.
- Authorizes the Judicial Conference to establish magistrate judge positions in the district courts of Guam and the Northern Mariana Islands.

Judicial Operations



Chief Judge Edward R. Becker (3rd Circuit), top right, told the Senate Judiciary Subcommittee on Administrative Oversight and the Courts that after thoroughly studying the issue, the Judicial Conference takes the position that permitting cameras in federal courts is not in the best interests of justice. Also testifying before the subcommittee were Associate Justice Hiller Zobel of Massachusetts (foreground) and Judge Nancy Gertner (Massachusetts). The Federal Courts Improvement Act of 2000 was enacted without a provision that would have allowed cameras in courtrooms with the consent of all parties.

- Allows senior judges to participate in circuit judicial councils.
- Gives the Director of the Administrative Office authority to appoint certifying officers in court units, which will help aid the implementation of a Judiciary-wide financial accounting system.
- Increases certain bankruptcy fees.
- Makes permanent the statutory authority for bankruptcy administrators in Alabama and North Carolina.
- Permits the chief judge to authorize the clerk of court to determine whether persons are qualified, unqualified, exempt, or excused from jury service.
- Increases the case compensation maximum amounts for panel attorneys.

The enacted version of the bill did not contain a provision that would have allowed cameras in courtrooms with the consent of all parties.

Criminal Justice. As a result of increases in law enforcement activity, the explosion of illegal drug and immigration cases along the U.S./Mexico border triggered a need for congressional action to provide more resources to the southwest border courts. Administrative

Office staff worked extensively with members of Congress to press the urgency of the situation. On May 11, 2000, Chief Judge Carolyn Dineen King (5th Circuit), Chief Judge Stephen M. McNamee (Arizona), Chief Judge Marilyn L. Huff (California-Southern), Chief Judge John Edwards Conway (New Mexico), Chief Judge George P. Kazen (Texas-Southern), Judge Edward C. Prado (Texas-Western), and Judge W. Royal Furgeson, Jr. (Texas-Western), briefed members of the Congressional Border Caucus regarding the crisis. On June 30, 2000, Judge Furgeson testified before the House Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources concerning the impact of dramatically increased drug trafficking on the border courts. As a result of these and other efforts, four new district court judgeships and significant additional resources were provided for the border courts in the Judiciary's fiscal year 2001 appropriation bill.

Judges Pay. Judges received a 2.7 percent Employment Cost Index adjustment along with members of Congress and Executive Schedule employees on January 1, 2001. Judges have received cost-of-living increases

in three of the past four years, following a period of four years in which there were no increases. The Commerce, Justice, State, the Judiciary and Related Agencies appropriations bill contained the required waiver of section 140 of P.L. 97-92, clearing the way for the increase.

Judicial Resources. During the second session, 39 nominees for Article III judgeships were confirmed—eight court of appeals judges and 31 district court judges. That action brought the total number of judicial confirmations for the 106th Congress to 73, but left 63 judicial vacancies pending.

Article III Judgeships

On July 31, 2000, the Judicial Conference transmitted to Congress a revised request for federal judgeships. The new proposal requested six permanent judgeships and four temporary judgeships for the courts of appeals and 30 permanent district judgeships and 23 temporary district judgeships. The Conference also recommended that seven temporary district judgeships be made permanent and that one be extended. On September 19, 2000, Senators Orrin Hatch (R-UT) and Patrick Leahy (D-VT) introduced the Judicial Conference proposal as S. 3071. Although Congress did not take action on this bill before its adjournment, 10 district judge-

tions bill. These were the first since the Judgeship Act of 1990 was passed.

Bankruptcy Judgeships

During the first session of the 106th Congress, the Judicial Conference recommended the creation of 24 new bankruptcy judgeships, conversion of two temporary judgeships to permanent judgeships, and extension of the terms of three other existing temporary judgeships. Both the House and Senate incorporated a modified judgeship provision into the bankruptcy reform bill. The President, however, vetoed the bill after Congress adjourned.

On October 25, 2000, Representative Nick Smith (R-MI) introduced H.R. 5540, a bill consisting of the judgeship provision of the reform legislation and a provision to extend the family farmer chapter of the bankruptcy code. The House passed this bill on October 31, 2000, but it was never taken up in the Senate.

The Judicial Conference submitted its report on the fourth biennial survey of the continuing need for bankruptcy judgeships to Congress December 31, 2000. The report reflects the Judicial Conference position that no authorized bankruptcy judgeship should be statutorily eliminated, but that circuits should be advised to continue the practice of filling bankruptcy judgeship vacancies when

there is a demonstrated need to do so. In the year 2000, seven authorized bankruptcy judgeships in five circuits were intentionally left vacant. Also during the year, one temporary bankruptcy judgeship lapsed under

the terms of the statutory provisions governing such judgeships.

Magistrate Judgeships

In fiscal year 2000, there were 447 full-time, 68 part-time, and three combined clerk/magistrate judge positions. Another nine new full-time magistrate judge positions were authorized for fiscal year 2001.

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ships were added to the Commerce, Justice, State and the Judiciary appropriations bill. The new positions were created in the districts of Arizona, New Mexico, Texas-Southern, Texas-Western, Florida-Southern, Nevada, Virginia-Eastern, Kentucky-Eastern, South Carolina, and Wisconsin-Eastern. Congress last created new judgeships in 1999 by including nine in the omnibus appropria-

Five of the nine new positions were conversions of part-time positions to full-time status. The increase is due to growing caseloads and expanded use of magistrate judges by the district courts.

Other Legislation. The Judiciary also has considerable interest in several proposals that could affect its operations but that were not passed. However, Judicial Conference committee chairs, other judges, the Director, and Administrative Office staff succeeded in raising awareness in Congress of the Judiciary's position on the issues involved. The 106th Congress ended with these bills still pending:

- **Federal Courts Budget Protection Act.** Designed to close a loophole in existing law that allows the executive branch to reduce indirectly the Judiciary's budget request to Congress and prevent the executive branch from eliminating budget requests for courthouse construction projects needed by the Judiciary. The Judicial Conference supports this legislation.
- **Legislation responding to the Supreme Court's decision in *Lexecon v. Milberg Weiss*.** The Judicial Conference supports a proposal to allow a judge with a transferred case from the Judicial Panel on Multidistrict Litigation to retain it for trial or transfer the case to another district.
- **Federal Agency Compliance Act,** which would require federal agencies, in civil cases, to adhere to existing precedents announced by the court of appeals in that circuit, except under certain circumstances, thereby discouraging intra-circuit non-acquiescence. The Judicial Conference supports this legislation.
- **Private Property Rights Implementation Act,** which is intended to expedite federal court consideration of claims by private property owners who allege that their property rights have been violated by final agency actions either by the federal government or state and local governments.

The Judicial Conference continued to reiterate its concerns with this legislation.

- **Managed care legislation.** The Judicial Conference urged Congress to provide that the state courts be the primary forum for the resolution of personal injury claims arising from the denial of health-care benefits, should Congress determine that such legal recourse is warranted.
- **Class action legislation.** The Judicial Conference opposed the class action provisions as introduced because of the potentially significant caseload impact and because such provisions would conflict with long-recognized principles of federalism.

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- **Asbestos legislation.** In 1991, the Judicial Conference encouraged Congress to consider a national legislative solution to streamline the resolution of asbestos personal injury cases.
- **Proposed amendment to the U.S. Constitution granting rights to victims of crime.** The Judicial Conference strongly prefers a statutory approach over a constitutional amendment on the issue of victims' rights.
- **Juvenile justice bills.** The Judicial Conference has expressed its concern over legislation that is intended to shift traditional state criminal prosecutions into federal courts.